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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) M4065.0210/P210	
		Application Number 09/588,008	Filed June 6, 2000
		First Named Inventor Sam Yang	
		Art Unit 2814	Examiner H. Trinh
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the		 Signature	
<input type="checkbox"/> applicant /inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Thomas J. D'Amico Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,371</u>		(202) 420-2232 Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		March 22, 2007 Date	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

<input type="checkbox"/>	*Total of <u>1</u> forms are submitted.
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Docket No.: M4065.0210/P210
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sam Yang et al.

Application No.: 09/588,008 Confirmation No.: 9015

Filed: June 6, 2000 Art Unit: 2814

For: A CAPACITOR FOR A SEMICONDUCTOR DEVICE Examiner: H. B. Trinh

APPLICANTS' PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated September 22, 2006 and the Advisory Actions dated January 12, and March 1, 2007 , finally rejecting claims 1-31 and 99, Applicants request a Pre-Appeal Brief Review in light of the following arguments:

Applicants note that this application is the parent application of U.S. Pat. Appl. No. 10/281,954, filed October 29, 2002, which also stands finally rejected and which has also has a request for Pre-Appeal Brief Review. The subject matter of this case is also related to subject matter claimed in divisional application U.S. Pat. Appl. No. 10/002,176, filed December 5, 2001, which currently stands rejected after Non-Final Office Action.

Claims 1-3, 7-16, 18-25, 29-31 and 99 stand rejected under 35 U.S.C. § 102(e) as

¹ Applicants note that although the PTO computer system indicates that this Advisory Action has been mailed, the Paper has not been received nor is the Paper accessible via the Office's Private and Public PAIR as of the filing of this paper. Applicants appreciates Examiner Supervisor Fahmy for his time and attention to this matter and his

traverse this rejection.

Iizuka does not disclose all the limitations of claim 1.² Specifically, Iizuka does *not* disclose an “annealed dielectric layer, wherein said annealed dielectric layer is annealed with a first annealing process” and “a top electrode ... annealed with a second annealing process.” This is noted by the Office Action in the Office’s February 21, 2007 Interview Summary in related case 10/002,176, where the Office stated that “Iizuka does not explicitly state the two annealing processes as claimed.”

The Advisory Action of March __, 2007, which issued after the February 21, 2007 interview and after Applicants’ February 22, 2007 Request for Reconsideration, presumably fails to raise, consider, or even address this point: that Iizuka fails to show the annealed dielectric layer and the annealed top electrode respectively annealed with first and second annealing processes, as claimed. Since Iizuka does not disclose all the limitations of claim 1, claim 1 and claims 2-3, 7-16, 18-25 and 29-31 depending therefrom are patentable over Iizuka.

Claim 99 recites similar limitations to claim 1 and is allowable over Iizuka for at least the same reasons as discussed with respect to claim 1,. Accordingly, Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of claims 1-3, 7-16, 18-25, 29-31 and 99 be withdrawn.

Claims 4, 5 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iizuka in view of U.S. Patent No. 5,452,178 (“Emesh”). Applicants respectfully traverse this rejection. Claims 4, 5 and 17 depend from claim 1 and should be similarly allowable with claim 1 for at least the reasons provided above with regard

indication that Examiner Trinh has indicated that the Advisory Action recently issued in this case is similar to the Advisory Action in U.S. Pat. Appl. No. 10/281,954 (a divisional case of the instant case).

² Claim 1 recites, a “capacitor for a semiconductor device, said capacitor comprising: a bottom conducting layer, wherein said bottom conducting layer is a bottom electrode; an annealed dielectric layer formed over said bottom conducting layer, wherein said annealed dielectric layer is annealed with a first annealing process; and a top electrode consisting of a single oxidized gas annealed top conducting layer formed over said annealed dielectric layer, wherein said annealed top conducting layer is annealed with a second annealing process.”

to claim 1, and on their own merits.

Additionally, Emesh does not cure the deficiency of Iizuka with respect to claim 1. Specifically, Emesh does not disclose all the limitations of claim 1. Specifically, Emesh does *not* disclose an “annealed dielectric layer, wherein said annealed dielectric layer is annealed with a first annealing process” and “a top electrode … annealed with a second annealing process.”

The Advisory Action of March __, 2007, which issued after the February 21, 2007 interview and after Applicants’ February 22, 2007 Request for Reconsideration, presumably fails to raise, consider, or even address this point: that Iizuka separately or in combination with Emesh fails to show the annealed dielectric layer and the annealed top electrode as claimed. Since Iizuka separately or combination with Emesh does not disclose all the limitations of claim 1, claim 1, and claims depending therefrom, are patentable over Iizuka and Emesh.

Claims 6 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iizuka in view of U.S. Patent No. 6,303,426 (“Alers”). Applicants respectfully traverse this rejection.

Claims 6 and 14 depend from claim 1 and should be similarly allowable with claim 1 for at least the reasons provided above with regard to claim 1, and on their own merits.

Additionally, Alers does not cure the deficiency of Iizuka with respect to claim 1. Specifically, Alers does not disclose all the limitations of claim 1. Specifically, Alers does *not* disclose an “annealed dielectric layer, wherein said annealed dielectric layer is annealed with a first annealing process” and “a top electrode … annealed with a second annealing process.”

As noted above, the Advisory Action of March __, 2007, presumably fails to raise, consider, or even address this point: that Iizuka separately or in combination with Alers fails to show the annealed dielectric layer and the annealed top electrode as

claimed. Since Iizuka separately or combination with Alers does not disclose all the limitations of claim 1, claim 1, and claims depending therefrom, are patentable over Iizuka and Alers.

Accordingly, the references do not teach or suggest all the limitations of claim 1 and claims 6 and 14 depending therefrom, and Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 6 and 14 be withdrawn.

Claims 26 and 27 stand rejected under 35 U.S.C. § 102(e) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Iizuka, in view of U.S. Patent No. 6,475,854 ("Narwankar"). Applicants respectfully traverse this rejection.

Claims 26 and 27 depend from claim 1 and should be similarly allowable with claim 1 for at least the reasons provided above with regard to claim 1, and on their own merits.

Additionally, Narwankar does not cure the deficiency of Iizuka with respect to claim 1. Specifically, Narwankar does *not* disclose all the limitations of claim 1. Specifically, Narwankar does *not* disclose an "annealed dielectric layer, wherein said annealed dielectric layer is annealed with a first annealing process" and "a top electrode ... annealed with a second annealing process."

The Advisory Action of March __, 2007, presumably fails to raise, consider, or even address this point: that Iizuka separately or in combination with Narwankar fails to show the annealed dielectric layer and the annealed top electrode as claimed. Since Iizuka and Narwankar, neither separately or in combination, do not teach or suggest all the limitations of claim 1, claims 26 and 27 depending therefrom are patentable over the reference. Accordingly, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 26 and 27 be withdrawn.

Claim 28 stands rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Iizuka, in view of U.S. Patent No. 6,387,802 ("Marsh"). Applicants respectfully traverse this rejection.

At the outset, Marsh has a filing date of June 15, 2000, which is *after* the June 6, 2000 filing date of the present application and therefore the subject matter of Marsh does not qualify as prior art. This reference cannot be applied against the claimed invention as a primary reference or as a secondary reference to cure a deficiency of a primary reference. This is not raised, considered, or addressed by the Office. Accordingly, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claim 28 be withdrawn.

In view of the above amendment, Applicants respectfully request withdrawal of all rejections.

Dated: March 22, 2007

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

Michael A. Weinstein

Registration No.: 53,754

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorneys for Applicant